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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION**

In re:

Natalie Nicole Buys,
Debtor.

**MOTION FOR RELIEF FROM
AUTOMATIC STAY**

Chapter 7

Case No. 14-25966

Judge William T. Thurman

APG Financial, Inc., by and through undersigned counsel, respectfully moves for relief from stay in the above-captioned matter.

STATEMENT OF FACTS

1. On or about May 21, 2014, Natalie Nicole Buys (“Debtor” entered into a Motor Vehicle Lease Agreement (hereinafter “the Lease Agreement”) pertaining to a 2006 Chevrolet

Cobalt (VIN # 1G1AK15F66784292). The Lease Agreement is attached to this Motion as Exhibit “A.”

2. The Vehicle is owned by APG. The title of the vehicle, specifying APG as owner, is attached as Exhibit “B.”
3. Under the Lease Agreement, Debtor agreed to make bi-monthly lease payments of \$175. [See Ex. A, p.1.]
4. On or about June 6, 2012, Debtor filed a voluntary petition for relief under Chapter 7 of the United State Bankruptcy Code
5. At the time the Petition was filed, the Lease Agreement was not in breach.
6. However, post-petition, on September 23, 2014, Debtor did not make a payment due and owing as required under the Lease Agreement.
7. Debtor only has possessory rights to the Vehicle provided that the Lease Agreement is not in breach. [See Ex. A, p.1.]
8. Because Debtor has not made required payments under the Lease Agreement, she is no longer entitled to possession of the Vehicle. The Lease Agreement specifies that a failure to make payments as required is a default, and that APG’s remedy for default is to terminate the lessee’s rights to use the vehicle by legal process or self-help. [See Ex. A, p.3.]
9. The Debtor’s bankruptcy filings failed to identify the Vehicle as a *leased* vehicle, despite express communications by APG to Debtor’s bankruptcy counsel on June 13, 2014.
10. Debtor is using the vehicle, but has failed to provide APG Financial with adequate

payments for the use of the Vehicle.

11. On September 30, 2014, and again on October 3, 2014, Counsel for APG contacted Debtor's counsel regarding this situation; Debtor's counsel failed to respond in any way.

12. Between September 24, 2014 and September 30, 2014, APG attempted to contact Debtor on multiple occasions and was unsuccessful.

ARGUMENT

APG Financial is entitled to relief from the automatic stay pursuant to 11 U.S.C. § 362. Numerous grounds exist for relief from the stay, including 1) to prevent irreparable harm and loss or damage to this creditor's property; 2) the Debtor does not own the Vehicle; and 3) the breach of the Lease Agreement occurred post-petition, and APG has obvious and unchallengeable rights to the Vehicle.

First, with the automatic stay in effect, APG Financial is being irreparably harmed in that the Vehicle is being used by the Debtor without any compensation for the use and depreciation, and possibly without the Vehicle being insured against loss, damage or destruction. The Debtor has not responded to numerous attempts to contact and inquire about her intentions and the state of the Vehicle. [SOF ¶ 11-12.]

Second, the Debtor and hence the Estate only has possessory rights to the Vehicle pursuant to the Lease Agreement. Yet the Lease Agreement has been breached due to non-payment. [SOF ¶ 6.] The Lease Agreement specifically states that lessee is "in default on this Lease" if lessee "fail[s] to make a payment as required by the Lease." [Ex. A, p. 3.] When the Lease agreement is in default, APG's remedies include termination of the lease and rights to use

the Vehicle, and taking back the Vehicle “by legal process or self help.” [Ex. A, p. 3.]

Third, the breach of the Lease Agreement occurred post-petition. The Vehicle belongs to APG and APG has the right to immediately repossess the Vehicle. [SOF ¶¶ 6-8.]

WHEREFORE, APG requests the following relief:

1. That the automatic stay of 11 U.S.C. § 362(a), be terminated pursuant to 11 U.S.C. § 362(d) and the Debtor Natalie Nicole Buys be ordered to immediately surrender possession of the Vehicle to APG;
2. That any order entered pursuant to this motion be effective immediately upon its entry, thereby waiving the stay imposed by Rule 4001(a)(3).
3. That APG be awarded reasonable attorney fees and costs incurred herein pursuant to the terms and provisions of the lease.
4. That APG have such further relief as the Court deems just and equitable.

DATED: October 22, 2014

PARR BROWN GEE & LOVELESS

By: /s/ Chad S. Pehrson

Chad S. Pehrson

Attorneys for APG Financial, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was served this 22nd day of October 2014, by the Court's CM/ECF electronic transmission or by United States mail on the following:

John Bagley (CM/ECF)

Elizabeth R. Loveridge, trustee (CM/ECF)

United States Trustee (CM/ECF)

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